

#10

BEST AVAILABLE COPY



GlaxoSmithKline

FAX

To Carol Bidwell / *Anthony Smith*
.....
Company PCT Legal Office
.....
Fax (703) 305-2919
.....
From Rob Smith
.....
Tel
.....
E-mail
.....
Date 11-Aug-2003 Pages including cover 25
.....
Subject RE: Serial No. 09/937,232
.....

GlaxoSmithKline
PO Box 13398
Five Moore Drive
Research Triangle Park
North Carolina 27709

Tel: 919 483 2100
www.gsk.com

RECEIVED

AUG 11 2003

PCT SPECIAL
PROGRAMS OFFICE

Further to our telephone conversation last Thursday, August 7, enclosed please find a Communication regarding the Petition to the Commissioner referred to therein.

Thank you for your assistance on this matter.

Sincerely,

Rob Smith

The Information contained in these documents is confidential and may also be privileged and is intended for the exclusive use of the addressee designated above. If you are not the intended recipient or the employee or agent responsible to deliver it to the intended recipient, any disclosure, reproduction, distribution, or any other dissemination or use of this communication is strictly prohibited. If you have received this transmission in error please contact us immediately by telephone so that we can arrange for its return.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Anderson, et al.) Examiner: Cartagena
)
U.S. Serial No.: 09/937,232) Group Art Unit: 3754
)
U.S. Filing Date: September 24, 2001)
) Applicant Docket #: PG 3654USw
Confirmation No. 6565)
)
Title: VALVE FOR USE IN)
CONTAINERS HAVING VALVE)
STEMS SLIDABLY MOVABLE)
WITHIN ROUND-EDGED)
SEALING RINGS)

COMMUNICATION**RECEIVED****09 SEP 2003****Legal Staff
International Division**

Commissioner for Patents
Washington D.C. 20231

Attn: Box Issue Fee

Sir:

This is in regards to a Petition to the Commissioner submitted to the Patent Office on November 8, 2002 ("Petition"). The Petition requests reconsideration of decision on petition of the PCT Legal Office under 37 C.F.R. 1.181.

To date, Applicants have not received any communication from the Commissioner regarding the Petition. Accordingly, Applicants respectfully request that the Petition be considered and that action be taken on the same. A copy of the Petition along with a copy of the postcard returned from the PTO indicating receipt of the Petition are enclosed for the convenience of the Office.

No fee is believed to be due in regards to filing this communication. In the event that any fee is due however, the Commissioner is authorized to charge Deposit Account 07-1392.

Applicant Docket No.: PG3654USw
U.S. Serial No.: 09/937,232
Page 2 of 2

Entry of this communication is respectfully requested.

Respectfully submitted,

Date: August 11, 2003



Robert J. Smith
Reg. No. 40,820
Attorney for Applicants

GlaxoSmithKline
Corporate Intellectual Property
Five Moore Drive
PO Box 13398
Research Triangle Park, NC 27709-3398
Direct Phone (919)483-9616
Facsimile (919)483-

AUG. 11. 2003 9:45AM

GLAXO WELLCOME

NO. 0032

P. 4

DOCKET No.

PG 3654 USW

Date Mailed

11/08/2002

Atty/Secy

RJS/BEY

DOCKET No.

PG 3654 USW

Date Mailed

11/08/2002

Atty/Secy

RJS/BEY

MAILING: CERTIFICATE/ EXPRESS MAIL #

Express Mail No.:

U.S. Serial No.:

09/937,232

EV022027699US

Filing Date:

09/24/2001

Int'l App. No.:

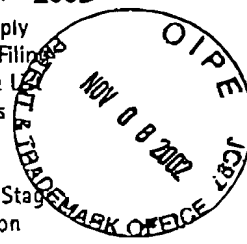
Int'l Filing Date:

RECEIPT IS ACKNOWLEDGED FOR THE FOLLOWING:

- ☐ Appln Transmit +1 copy for: ☐ Provisional ☐ CIP
☐ Utility ☐ CONTIN ☐ DIV ☐ RCE ☐ TRADEMARK
☐ Specification _____ pgs ☐ Abstract _____ pgs
☐ Dees _____ pgs ☐ Powers of Atty _____ pgs
☐ Drawings _____ Sheet(s)/Figs _____ to _____
☐ Assignment _____ pgs & Recordation Cover Sheet
☐ Transmit Ltr Nat'l Stage Entry +fee pg (3pgs)
☐ Information Disclosure Statement
☐ Form PTO-1449 _____ pgs. ☐ References
☐ Amendment ☐ Response _____ pgs
☐ Petition for _____ month Extension of Time +1 copy
☐ Issue Fee Trans. (Part B) + 1 copy
☐ Copy of Notice to File Missing Parts
☐ Request for Nonpublication (1 pg)
☒ Authorization to Charge Dep. Acct. # 07-1392

- ☐ Copy of Notice to Comply
☐ Statement to Support Filing
☐ Diskette ☐ Sequence Listing
☐ Appeal Brief _____ pgs
☐ Petition _____ pgs
☐ Status Request
☐ 2nd Transmit for Nat'l Stage
☐ Resp. to Written Opinion
☐ Priority Doc # _____
☐ Notice of Appeal +fee
☐ Resp to Restrict Req _____ pgs
☐ Req to Correct Filing Recpt
☒ Copy of Filing Receipt
☐ Req for Cert of Correct _____ pgs

DT06 Rec'd PCT/PTO 08 NOV 2002



☒ Petition to Commissioner for Reconsideration of Decision on Petition
☒ Copy of Transmittal Letter to the DO/EO/US
☒ Copy of Declaration/DOA



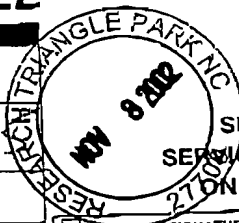
UNITED STATES POSTAL SERVICE®

POST OFFICE
TO ADDRESSEE

EV 022027699 US

ORIGIN (POSTAL USE ONLY)

PO Zip Code 27709	Day of Delivery <input checked="" type="checkbox"/> First <input type="checkbox"/> Second	Flat Rate Envelope <input type="checkbox"/>
Date In 11/8/02	Time In <input checked="" type="checkbox"/> 12 Noon <input type="checkbox"/> 3 PM	Postage \$ 136
Weight 6 oz.	Int'l Alpha Country Code	Return Receipt Fee
No Delivery <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Acceptance Clerk Initials BHL	COD Fee Insurance Fee
METHOD OF PAYMENT Express Mail Corporation Acct. No. 27709-1202		Total Postage & Fees \$ 1365

SEE REVERSE SIDE FOR
SERVICE GUARANTEE AND LIMITS
ON INSURANCE COVERAGE

☐ WAIVER OF SIGNATURE (Domestic Only): Additional merchandise insurance is void if waiver of signature is requested. I wish delivery to be made without obtaining signature of addressee or addressee's agent. (If delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.

NO DELIVERY ☐ Weekend ☐ Holiday Customer Signature

FROM: (PLEASE PRINT)

PHONE:

PG 3654 USW

GLAXO WELLCOME
 INTELLECTUAL
 PROPERTY
 FIVE MOORE DR
 PO BOX 12348
 RTP

NC 27709-3393

TO: (PLEASE PRINT)


PHONE:



BOX
 COMMISSIONER FOR PATENTS
 US PATENT & TRADEMARK OFFICE
 WASHINGTON DC 20231-0001

FOR PICKUP OR TRACKING CALL 1-800-222-1811

www.usps.com

Customer Copy
Label 11-F August 2000

CERTIFICATE OF MAILING BY "EXPRESS MAIL" (37 CFR 1.10)			Docket No. PG3654USw	
Applicant(s): ANDERSON, et. al.	Serial No. 09/937,232	Filing Date 09/24/2001	Examiner CARTAGENA	Group Art Unit 3754
Invention: VALVE				
<p>I hereby certify that this <u>Petition to Commissioner for Reconsideration of Decision and Corresponding Docs</u> <small>(Identify type of correspondence)</small></p> <p>is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 in an envelope addressed to: The Commissioner of Patents and Trademarks, Washington, D.C.</p> <p>20231-0001 on <u>11/08/2002</u> <small>(Date)</small></p> <div style="text-align: right; margin-top: 20px;"><p><u>Ban Younan</u> <small>(Typed or Printed Name of Person Mailing Correspondence)</small></p><p><u></u> <small>(Signature of Person Mailing Correspondence)</small></p><p><u>EVO22027699US</u> <small>("Express Mail" mailing label number)</small></p></div>				
Note: Each paper must have its own certificate of mailing.				

TRANSMITTAL LETTER (General - Patent Pending)			Docket No. PG3654USw
In Re Application Of: ANDERSON, et. al.			
Serial No. 09/937,232	Filing Date 09/24/2001	Examiner CARTAGENA	Group Art Unit 3754
Title: VALVE			
<u>TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:</u>			
Transmitted herewith is: Petition to Commissioner for Reconsideration of Decision on Petition of PCT Legal Office Under 37 C.F.R. 1.181 TAB 1: Copy of Transmittal Letter to the DO/EO/US Concerning a Filing Under 35 U.S.C. 371 TAB 2: Copy of Combined Declaration for Utility or Design Patent Application with POA TAB 3: Copy of Filing Receipt and Notice of Acceptance			
in the above identified application.			
<input type="checkbox"/> No additional fee is required. <input type="checkbox"/> A check in the amount of _____ is attached. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge and credit Deposit Account No. 07-1392 as described below. A duplicate copy of this sheet is enclosed. <div style="margin-left: 40px;"><input type="checkbox"/> Charge the amount of <input checked="" type="checkbox"/> Credit any overpayment. <input checked="" type="checkbox"/> Charge any additional fee required.</div>			
 _____ <i>Signature</i>		Dated: November 8, 2002	
Robert J. Smith Registration No.: 40,820 Telephone: 919-483-9616  23347 PATENT TRADEMARK OFFICE		<div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;">I certify that this document and fee is being deposited on _____ with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;">Signature of Person Mailing Correspondence</div> <div style="border: 1px solid black; padding: 5px;">Typed or Printed Name of Person Mailing Correspondence</div>	
CC:			

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Anderson et al.)
Int'l Appln. No.: PCT/EP00/01444) Examiner: Cartagena
Int'l Filing Date: February 23, 2000)
U.S. Serial No.: 09/937,232) Art Unit: 3754
U.S. Filing Date: September 24, 2001) Applicant Docket #: PG3654USw
Title: VALVE)

**PETITION TO COMMISSIONER FOR RECONSIDERATION
OF DECISION ON PETITION OF PCT LEGAL OFFICE
UNDER 37 C.F.R. 1.181**

Commissioner for Patents
Washington D.C. 20231

Sir:

Pursuant to 37 C.F.R. 1.181, this is a Petition to the Commissioner requesting reconsideration of a Notification of the PCT Legal Office issued September 25, 2002 vacating the Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) ("Notification"). Applicant believes that such a Petition is appropriate under the conditions set forth in 37 C.F.R. 1.181(a). For the reasons stated herein, Applicant respectfully submits that the Notification was clearly in error. Accordingly, reinstatement of the above application as a U.S. National Stage application is respectfully requested.

Statement of Facts/Background

On September 24, 2001, Applicant filed the above application in the U.S. Designated/Elected Office. The contents of the filing included:

10/02/2003 GFREY1 00000006 071392 09937232
01 FC:1460 130.00 DA

Express Mail No.:
EV022027699US

- (1) Transmittal Form PCT/DO/EO/1390 indicating that the application is a national stage filing (**Tab 1**);
- (2) A copy of the PCT Request filed in the corresponding PCT application;
- (3) A copy of the PCT Cover Sheet filed in the corresponding PCT application;
- (4) A copy of the International Preliminary Examination Report issued for the corresponding PCT application;
- (5) A copy of the International Search Report issued for the corresponding PCT application;
- (6) A Information Disclosure Statement under 37 CFR 1.97 and 1.98;
- (7) A first Preliminary Amendment; and
- (8) An oath or declaration of the inventor(s) submitted in accordance with 37 USC 371(c)(3) (**Tab 2**)

On October 30, 2001 a Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 C.F.R. 1.494 or 1.495 was mailed to Applicant, along with a Filing Receipt (both of which are enclosed at **Tab 3**). The Notice of Acceptance explicitly stated that International Application PCT/EP00/01444 had met the requirements of 35 U.S.C. 371 and was accepted for national patentability examination. The Filing Receipt indicated that the national phase application was a 371 of PCT/EP00/01444 under the "Domestic priority data as claimed by applicant".

Subsequently, on May 2, 2002, an Office Action on the merits was mailed to Applicant. Applicant timely filed a response to the Office Action on July 30, 2002. In the response, Applicant amended page 1 of the specification to properly reflect the lineage of the present U.S. application in relation to PCT International Application No. PCT/EP00/01444. Applicant also concurrently filed a Petition to Accept an Unintentionally Delayed Priority Claim Under 37 C.F.R. 1.78(a)(3).

Applicant Docket No.: PG3654/USw
Serial No.: 09/937,232
Page 3 of 8

On September 25, 2002, the PCT Legal Office issued the Notification vacating the Notification of Acceptance of Application under 35 U.S.C. § 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) and ordered the application be processed as an application under 35 U.S.C. 111(a) and not as a U.S. national stage application. The PCT Legal Office reached this decision because, in its opinion, Applicant's First Preliminary Amendment filed concurrently with request for entry into the national phase contained the header "Preliminary Amendment Under 35 U.S.C. 111". The PCT Legal Office alleged that this statement gave rise to a level of ambiguity as to whether an application under 111(a) or a national stage application was intended to be filed by Applicant. Citing 37 C.F.R. 1.495(g) and MPEP 1893.03(a) in support of its position, the PCT Legal Office indicated that, in the event that an ambiguity is present, the application must be treated as a 111(a) application.

Statement/Point for Review by Commissioner

The vacation of the above application as a national stage application under 35 U.S.C. 371 by the PCT Legal Office was in error

For the reasons set forth below, Applicant respectfully submits that the PCT Legal Office's Notification ordering the application be processed as a 111(a) application was clearly in error. Applicant's position is based largely upon the standard provided by 37 C.F.R. 1.495(g) and MPEP 1893.03(a) for evaluating whether a national phase application or an application under 35 U.S.C. 111 is intended to be filed. Accordingly, Applicant respectfully requests that the decision of the PCT Legal Office set forth in the Notification be set aside and that the application be treated as a national stage application as correctly determined by the Patent Office.

In support of its argument, the PCT Legal Office cites 37 C.F.R. 1.495(g) and MPEP 1893.03(a) for the position that an ambiguity as to whether an application is to be filed as a national stage or a 111(a) application is to be resolved in favor of a 111(a) application. Applicant does not dispute

such a position. Applicant instead submits that no such ambiguity exists. Moreover, Applicant submits that the PCT Legal Office has arrived at its decision without a thorough analysis to the C.F.R. and MPEP provisions that it has cited. When evaluating the arguments of the PCT Legal Office properly in view of the above C.F.R. and MPEP provisions taken in their entirety, it is clear that the position of the PCT Legal Office is without merit.

37 C.F.R. 1.495(g) states:

"The documents and fees submitted under paragraphs (b) and (c) of this section must, except for a copy of the international publication or translation of the international application that is identified as provided in § 1.417, be clearly identified as a submission to enter the national stage under under 35 U.S.C. 371. Otherwise, the submission will be considered as being made under 35 U.S.C. 111(a)"

37 C.F.R. 1.495(b) and (c) states as follows:

"To avoid abandonment of the application the applicant shall furnish to the United States Patent and Trademark Office not later than the expiration of 30 months from the priority date:

- (1) ***A copy of the international application***, unless it has been previously communicated by the International Bureau or unless it was originally filed in the United States Patent and Trademark Office; and
- (2) ***The basic national fee (see § 1.492(a)).*** The 30-month time limit may not be extended."

(emphasis added)

37 C.F.R. 1.495 (c) states:

"If applicant complies with paragraph (b) of this section before expiration of 30 months from the priority date but omits:

- (1) A translation of the international application, as filed, into the English language, if it was originally filed in another language (35 U.S.C. 371(c)(2)) and/or

(2) *The oath or declaration of the inventor* (35 U.S.C. 371(c)(4); see § 1.497), and a declaration of inventorship in compliance with § 1.497 has not been previously submitted in the international application under PCT Rule 4.17(iv) within the time limits provided for in PCT Rule 26ter.1. applicant will be so notified and given a period of time within which to file the translation and/or oath or declaration in order to prevent abandonment of the application. The payment of the processing fee set forth in § 1.492(f) is required for acceptance of an English translation later than the expiration of 30 months after the priority date. The payment of the surcharge set forth in § 1.492(e) is required for acceptance of the oath or declaration of the inventor later than the expiration of 30 months after the priority date. A "Sequence Listing" need not be translated if the "Sequence Listing" complies with PCT Rule 12.1(d) and the description complies with PCT Rule 5.2(b)."

(emphasis added).

It is clear that Applicant has provided the items referenced in 37 C.F.R. 1.495(g) and that those items were clearly marked as intended for national stage entry. Such documents include:

- (a) a copy of the International Application;
- (b) the basic national fee under § 1.492(a); and
- (c) an Oath or Declaration under 35 U.S.C. 371(c)(4).

With the exception of a copy of the International Application, such items were filed concurrently with the request to enter the national phase and were listed on Transmittal Form PCT/DO/EO/1390 (see **Tab 1**)¹. Receipt of these items was acknowledged by the Patent Office in the Notification of Acceptance of Application. Accordingly, in view of 37 C.F.R. 1.495(g), which was cited by the PCT Legal Office in its Notification, Applicant respectfully submits that it unquestionably intended the application to enter the national stage as opposed to a 111(a) filing.

The PCT Legal Office also cites MPEP 1893.03(a), pages 1800-114 in support of its position. Applicant respectfully submits that a more thorough

¹ A copy of the International Application was transmitted by the International Bureau to the Patent Office. Acknowledgement of receipt of the International Application was indicated by the Notification of Acceptance of Application issued by the Patent Office

Applicant Docket No.: PG3654/USw
Serial No.: 09/937,232
Page 6 of 8

examination of this passage reveals that the present application was clearly intended for national stage entry.

MPEP 1893.03(a) lists three key factors in evaluating whether an application is to be considered as filed under 35 U.S.C. 371. Such factors are:

- (A) ***The file face indication of a filing under 35 U.S.C. 371;***
- (B) ***The Form PCT/DO/EO/903 indicating acceptance of the application as a national stage filing under 35 U.S.C. 371; and***
- (C) ***Applicant's statement (or the equivalent) in the originally filed application papers that the application is a national stage filing under 35 U.S.C. 371. Applicants who use transmittal Form PCT/DO/EO/1390 will satisfy the requirement for such a statement since the form includes an indication that the application is a national stage filing under 35 U.S.C. 371.***

(emphasis added)

With respect to factor (A), the filing of Transmittal Form PCT/DO/EO/1390 (see Tab 1) by Applicant fulfills its requirement. In particular, the first line of Form PCT/DO/EO/1390 states:

"Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371"

With respect to factor (B), the Patent Office issued a Form PCT/DO/EO/903 indicating acceptance of the application as a national phase filing. See Tab 3. Accordingly, this factor is met.

With respect to factor (C), Applicant has provided a statement that the application is a national stage filing under 35 U.S.C. 371 by virtue of the submission of Form PCT/DO/EO/1390. See Tab 1. Factor (C) indicates that "Applicants who use transmittal form PCT/DO/EO/1390 will satisfy the requirement for such a statement..." (MPEP 1893.03(a)). Therefore, this factor is believed to be satisfied.

In addition to the above, MPEP 1893.03(a) further states:

"... In accordance with the notice at 1077 O.G. 13 (14 April 1987), if the applicant files a U.S. national application and clearly identifies in the accompanying oath or declaration the specification to which it is directed by referring to a particular international application by PCT Application Number and International Filing Date and that he or she is executing the declaration as, and seeking a U.S. Patent as, the inventor of the invention described in the identified international application, then the application will be accepted as filed under 35 U.S.C. 371. ..."

(emphasis added)

Applicant refers the Commissioner to **Tab 2** which is a copy of the inventor's Declaration filed concurrently with the application. The Declaration clearly indicates that the reference application is PCT International Application No. PCT/EP00/01444 filed 23 February 2000. Therefore, in accordance with the passage of MPEP 1893.03(a) cited above, the present application is to accepted as filed under 35 U.S.C. 371.

Conclusion/Action Requested

When properly analyzed in light of the appropriate legal standards, Applicant respectfully submits that the present application was unquestionably intended for national phase filing under 35 U.S.C. 371. In view of such an analysis, a single statement in a Preliminary Amendment referring to 35 U.S.C. 111 cannot be construed as giving rise to an ambiguity as to the intention of the filing². The evidence of record overwhelmingly indicates that Applicant intended the application be filed as a national stage application.

In view of the above, Applicant respectfully requests that the Commissioner reverse the decision of the PCT Legal Office set forth in the Notification, and that the Application be properly afforded its initial and correct status as a national stage application.

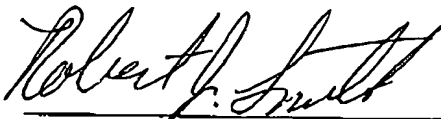
Applicant Docket No.: PG3654/USw
Serial No.: 09/937,232
Page 6 of 8

In accordance with 37 C.F.R. 1.181(f), this Petition is considered to be timely filed because it is filed within two months from the mailing of the Notification. Additionally, the Commissioner is authorized to charge Deposit Account No.07-1392 for any fee that may be due so as to fulfill the requirement of 37 C.F.R. 1.181(d).

It is encouraged that Applicant's undersigned representative be contacted at (919) 483-9616 in the event that there are any questions or concerns pertaining to the above.

Respectfully submitted,

Date: November 8, 2002



Robert J. Smith
Reg. No. 40,820
Attorney for Applicants

GlaxoSmithKline
Corporate Intellectual Property
Five Moore Drive
PO Box 13398
Research Triangle Park, NC 27709-3398
Direct Phone (919)483-9616
Facsimile (919)483-7988



23347

PATENT TRADEMARK OFFICE

² Applicant submits that this statement in the Preliminary Amendment was an inadvertent typographical error and made without deceptive intent.

TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371		PG3 JSW U.S. APPLICATION NO. (IF KNOWN, SEE 37 CFR
INTERNATIONAL APPLICATION NO. PCT/EP00/01444	INTERNATIONAL FILING DATE 23 February 2000	PRIORITY DATE CLAIMED 24 March 1999
TITLE OF INVENTION VALVE		
APPLICANT(S) FOR DO/EO/US Gregor John McLennan ANDERSON; Marck Andrew HAILEY; David Joseph RUSSELL; James William GODFREY		
Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:		
<ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> This is a FIRST submission of items concerning a filing under 35 U.S.C. 371. 2. <input type="checkbox"/> This is a SECOND or SUBSEQUENT submission of items concerning a filing under 35 U.S.C. 371. 3. <input checked="" type="checkbox"/> This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (24) indicated below. 4. <input type="checkbox"/> The US has been elected by the expiration of 19 months from the priority date (Article 31). 5. <input checked="" type="checkbox"/> A copy of the International Application as filed (35 U.S.C. 371 (c) (2)) <ol style="list-style-type: none"> a. <input type="checkbox"/> is attached hereto (required only if not communicated by the International Bureau). b. <input checked="" type="checkbox"/> has been communicated by the International Bureau. c. <input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US). 6. <input type="checkbox"/> An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)). <ol style="list-style-type: none"> a. <input type="checkbox"/> is attached hereto. b. <input type="checkbox"/> has been previously submitted under 35 U.S.C. 154(d)(4). 7. <input checked="" type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371 (c)(3)) <ol style="list-style-type: none"> a. <input type="checkbox"/> are attached hereto (required only if not communicated by the International Bureau). b. <input type="checkbox"/> have been communicated by the International Bureau. c. <input type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired. d. <input checked="" type="checkbox"/> have not been made and will not be made. 8. <input type="checkbox"/> An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)). 9. <input checked="" type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371 (c)(4)). <i>Anderson, Hailey, Russell, Godfrey.</i> 10. <input type="checkbox"/> An English language translation of the annexes of the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371 (c)(5)). 11. <input checked="" type="checkbox"/> A copy of the International Preliminary Examination Report (PCT/IPEA/409). 12. <input checked="" type="checkbox"/> A copy of the International Search Report (PCT/ISA/210). <p>Items 13 to 20 below concern document(s) or information included:</p> <ol style="list-style-type: none"> 13. <input checked="" type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98. 14. <input type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included. 15. <input checked="" type="checkbox"/> A FIRST preliminary amendment. 16. <input type="checkbox"/> A SECOND or SUBSEQUENT preliminary amendment. 17. <input type="checkbox"/> A substitute specification. 18. <input type="checkbox"/> A change of power of attorney and/or address letter. 19. <input type="checkbox"/> A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 35 U.S.C. 1.821 - 1.825. 20. <input type="checkbox"/> A second copy of the published international application under 35 U.S.C. 154(d)(4). 21. <input type="checkbox"/> A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4). 22. <input checked="" type="checkbox"/> Certificate of Mailing by Express Mail 23. <input checked="" type="checkbox"/> Other items or information: Copy of PCT Request Copy of PCT Cover Sheet 		

PCT/EP00/01444

PG3654USW

24. The following fees are submitted:

BASIC NATIONAL FEE (37 CFR 1.492 (a) (1) - (5)) :

- ☐ Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO and International Search Report not prepared by the EPO or JPO \$1000.00
- ☒ International preliminary examination fee (37 CFR 1.482) not paid to USPTO but International Search Report prepared by the EPO or JPO \$860.00
- ☐ International preliminary examination fee (37 CFR 1.482) not paid to USPTO but international search fee (37 CFR 1.445(a)(2)) paid to USPTO \$710.00
- ☐ International preliminary examination fee (37 CFR 1.482) paid to USPTO but all claims did not satisfy provisions of PCT Article 33(1)-(4) \$690.00
- ☐ International preliminary examination fee (37 CFR 1.482) paid to USPTO and all claims satisfied provisions of PCT Article 33(1)-(4) \$100.00

ENTER APPROPRIATE BASIC FEE AMOUNT =

\$860.00

Surcharge of \$130.00 for furnishing the oath or declaration later than ☐ 20 ☐ 30 months from the earliest claimed priority date (37 CFR 1.492 (e)).

\$0.00

CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE
Total claims	30 - 20 =	10	x \$18.00
Independent claims	1 - 3 =	0	x \$80.00

\$180.00

\$0.00

Multiple Dependent Claims (check if applicable) ☐

\$0.00

TOTAL OF ABOVE CALCULATIONS =

\$1,040.00

- ☐ Applicant claims small entity status. (See 37 CFR 1.27). The fees indicated above are reduced by 1/2.

\$0.00

SUBTOTAL =

\$1,040.00

Processing fee of \$130.00 for furnishing the English translation later than ☐ 20 ☐ 30 months from the earliest claimed priority date (37 CFR 1.492 (f)).

\$0.00

TOTAL NATIONAL FEE =

\$1,040.00

Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31) (check if applicable) ☐

\$0.00

TOTAL FEES ENCLOSED =

\$1,040.00

Amount to be refunded	\$
charged	\$

- a. ☐ A check in the amount of _____ to cover the above fees is enclosed.
- b. ☒ Please charge my Deposit Account No. 07-1392 in the amount of 1040.00 to cover the above fees. A duplicate copy of this sheet is enclosed.
- c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 07-1392. A duplicate copy of this sheet is enclosed.
- d. ☐ Fees are to be charged to a credit card. **WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.

SEND ALL CORRESPONDENCE TO:

David J. Levy
GlaxoSmithKline
Corporate Intellectual Property
Five Moore Drive, PO Box 13398
Research Triangle Park, NC 27709
Telephone: 919-483-2370
Fax: 919-483-7988



23347

PATENT TRADEMARK OFFICE

SIGNATURE

Christopher P. Rogers

NAME

36,334

REGISTRATION NUMBER

September 24, 2001

DATE

PCT/EP00/01444

PG3654USW

24. The following fees are subm.:

BASIC NATIONAL FEE (37 CFR 1.492 (a) (1) - (5)):

- ☐ Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO and International Search Report not prepared by the EPO or JPO \$1000.00
- ☒ International preliminary examination fee (37 CFR 1.482) not paid to USPTO but International Search Report prepared by the EPO or JPO \$860.00
- ☐ International preliminary examination fee (37 CFR 1.482) not paid to USPTO but international search fee (37 CFR 1.445(a)(2)) paid to USPTO \$710.00
- ☐ International preliminary examination fee (37 CFR 1.482) paid to USPTO but all claims did not satisfy provisions of PCT Article 33(1)-(4) \$690.00
- ☐ International preliminary examination fee (37 CFR 1.482) paid to USPTO and all claims satisfied provisions of PCT Article 33(1)-(4) \$100.00

ENTER APPROPRIATE BASIC FEE AMOUNT =

Surcharge of \$130.00 for furnishing the oath or declaration later than ☐ 20 ☐ 30 months from the earliest claimed priority date (37 CFR 1.492 (e)).

CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE
Total claims	30 - 20 =	10	x \$18.00
Independent claims	1 - 3 =	0	x \$80.00

Multiple Dependent Claims (check if applicable). ☐

TOTAL OF ABOVE CALCULATIONS =

- ☐ Applicant claims small entity status. (See 37 CFR 1.27). The fees indicated above are reduced by 1/2.

SUBTOTAL =

Processing fee of \$130.00 for furnishing the English translation later than ☐ 20 ☐ 30 months from the earliest claimed priority date (37 CFR 1.492 (f)).

TOTAL NATIONAL FEE =

Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31) (check if applicable). ☐

TOTAL FEES ENCLOSED =

Amount to be refunded	\$
charged	\$

- a. ☐ A check in the amount of _____ to cover the above fees is enclosed.
- b. ☒ Please charge my Deposit Account No. 07-1392 in the amount of 1040⁰⁰ to cover the above fees. A duplicate copy of this sheet is enclosed.
- c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 07-1392. A duplicate copy of this sheet is enclosed.
- d. ☐ Fees are to be charged to a credit card. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.

SEND ALL CORRESPONDENCE TO:

David J. Levy
GlaxoSmithKline
Corporate Intellectual Property
Five Moore Drive, PO Box 13398
Research Triangle Park, NC 27709
Telephone: 919-483-2370
Fax: 919-483-7988



23347

PATENT TRADEMARK OFFICE

SIGNATURE

Christopher P. Rogers

NAME

36,334

REGISTRATION NUMBER

September 24, 2001

DATE

DECLARATION FOR "371" APPLICATION

COMBINED DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION WITH POWER OF ATTORNEYATTORNEY'S DOCKET
PG3654USWFirst Names Inventor:
Gregor John McLennan
ANDERSONComplete if known:
App No.:

Filing Date

Group Art Unit:

() Declaration submitted with initial filing or

() Declaration submitted after initial filing (surcharge required 37CFR1.16(e))

As below named inventor. I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

VALVE

the specification of which (check only one item below):

[] is attached hereto.

OR

[x] was filed on 23 February 2000 as United States application Serial No. _____ or PCT InternationalApplication Number PCT/EP00/01444 filed and was amended on (MM/DD/YYYY) _____ (if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR §1.56.

I hereby claim foreign priority benefits under 35, U.S.C. §119 (a)-(d) or §365(b) of any foreign application(s) for patent or inventor's certificate or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate or of any PCT international application having a filing date before that of the application on which priority is claimed:

PRIOR FOREIGN AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. 119:

Prior Foreign Application Number (s)	Country	Foreign Filing Date (MM/DD/YYYY)	PRIORITY CLAIMED
1 9906640.9	GB	March 24, 1999	X
2.			
3.			
4.			
5.			

I hereby claim the benefit under Title 35, United States Code §119(e) of any United States provisional application(s) listed below:

Application No.	Filing Date (MM/DD/YYYY)
1.	
2.	
3.	
4.	

Express Mail No.:
EV022027699US

COMBINED DECLARATION FOR UTILITY or DESIGN PATENT APPLICATION WITH POWER OF ATTORNEY

 ATTORNEY'S DOCKET NUMBER
PG3654USW

Continued

I hereby claim the benefit under 35, U.S.C. §120 of any United States application or §365(c) of any PCT international application designating the United States of America that is listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. §112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. §1.56 which became available between the filing date of the prior application(s) and the national or PCT international filing date of this application:

PRIOR U.S. PARENT APPLICATION or PCT PARENT APPLICATION

U.S. Parent Application or PCT Parent Number	Parent Filing Date (MM/DD/YYYY)	STATUS (Check one)		
		PATENTED	PENDING	ABANDONED

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the U.S. Patent and Trademark Office connected therewith. (List name and registration number)

David J. Levy Reg. No. 27,655
Charles E. Dadswell Reg. No. 35,851
Karen L. Frus Reg. No. 39,337
Robert H. Brink Reg. No. 36,094
Elizabeth Selby Reg. No. 38,298

James P. Rick Reg. No. 39,009
Virginia C. Bennett Reg. No. 37,092
Frank P. Grassler Reg. No. 31,164
Christopher P. Rogers Reg. No. 36,334
Loric Ann Morgan Reg. No. 38,181

Bonnie L. Deppenbrock Reg. No. 28,209
John L. Lemanowicz Reg. No. 37,380
Amy H. Fix Reg. No. 42,616

Send Correspondence to:

David J. Levy, Patent Counsel
Corporate Intellectual Property Department
GlaxoSmithKline
Five Moore Drive, PO Box 13398
Research Triangle Park, NC 27709



23347

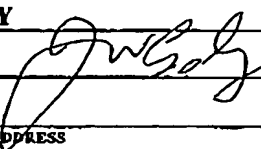
PATENT TRADEMARK OFFICE

Direct Telephone Calls to:

Christopher P. ROGERS
919-483-1240

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

2	FULL NAME OF INVENTOR	FAMILY NAME	FIRST GIVEN NAME	SECOND GIVEN NAME/INITIAL
	INVENTOR'S SIGNATURE	ANDERSON	Gregor	John, McLennan
0	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
	POST OFFICE ADDRESS	Ware	GB	GB
1		POST OFFICE ADDRESS	CITY	STATE & ZIP CODE/COUNTRY
		GlaxoSmithKline	Durham	North Carolina 27709, US
		Five Moore Drive, PO Box 13398		
2	FULL NAME OF INVENTOR	FAMILY NAME	FIRST GIVEN NAME	SECOND GIVEN NAME/INITIAL
	INVENTOR'S SIGNATURE	HAILEY	Mark	Andrew
0	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
	POST OFFICE ADDRESS	Ware	GB	GB
2		POST OFFICE ADDRESS	CITY	STATE & ZIP CODE/COUNTRY
		GlaxoSmithKline	Durham	North Carolina 27709, US
		Five Moore Drive, POBox 13398		
2	FULL NAME OF INVENTOR	FAMILY NAME	FIRST GIVEN NAME	SECOND GIVEN NAME/INITIAL
	INVENTOR'S SIGNATURE	RUSSELL	David	Joseph
0	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
	POST OFFICE ADDRESS	Ware	GB	GB
3		POST OFFICE ADDRESS	CITY	STATE & ZIP CODE/COUNTRY
		GlaxoSmithKline	Durham	North Carolina 27709, US
		Five Moore Drive, POBox 13398		

2	FULL NAME OF INVENTOR	FAMILY NAME GODFREY	FIRST GIVEN NAME James	SECOND GIVEN NAME/INITIAL William
0	INVENTOR'S SIGNATURE	Signature 		Date: X 12 Sept 01
0	RESIDENCE & CITIZENSHIP	CITY Ware	STATE OR FOREIGN COUNTRY GB	COUNTRY OF CITIZENSHIP GB
4	POST OFFICE ADDRESS	POST OFFICE ADDRESS GlaxoSmithKline Five Moore Drive, POBox 13398	CITY Durham	STATE & ZIP CODE/COUNTRY North Carolina 27709, US

Page 1 of 2



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FL FEE REC'D	ATTY DOCKET NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/937,232	09/24/2001	3754	1040	PG3654USW	3	30	1

CONFIRMATION NO. 6565

23347
DAVID J LEVY, CORPORATE INTELLECTUAL PROPERTY
GLAXOSMITHKLINE
FIVE MOORE DR.
PO BOX 13398
DURHAM, NC 27709-3398

FILING RECEIPT

OC000000006974719

Date Mailed: 10/30/2001

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

**Gregor John McLennan Anderson, Durham, NC;
Mark Andrew Hailey, Durham, NC;
David Joseph Russell, Durham, NC;
James William Godfrey, Durham, NC;**

Domestic Priority data as claimed by applicant

THIS APPLICATION IS A 371 OF PCT/EP00/01444 02/23/2000

Foreign Applications

UNITED KINGDOM 9906640.9 03/24/1999

Projected Publication Date: Not Applicable, filed prior to November 29, 2000

Non-Publication Request: No

Early Publication Request: No

Title

Valve

Preliminary Class

Express Mail No.:
EY022027699US

251

**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

<input checked="" type="checkbox"/> Commissioner For Patents, Box PCT, United States Patent and Trademark Office, Washington, D.C. 20231, www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/937,232	Gregor John McLennan Anderson	PG3654USW

23347
DAVID J LEVY, CORPORATE INTELLECTUAL PROPERTY
GLAXOSMITHKLINE
FIVE MOORE DR.
PO BOX 13398
DURHAM, NC 27709-3398

INTERNATIONAL APPLICATION NO.	
PCT/EP00/01444	
LA. FILING DATE	PRIORITY DATE
02/23/2000	03/24/1999

CONFIRMATION NO. 6565
371 ACCEPTANCE LETTER


000000006974720

Date Mailed: 10/30/2001

NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C 371 AND 37 CFR 1.494 OR 1.495

The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as an Elected Office (37 CFR 1.495), has determined that the above identified international application has met the requirements of 35 U.S.C. 371, and is **ACCEPTED** for national patentability examination in the United States Patent and Trademark Office.

The United States Application Number assigned to the application is shown above and the relevant dates are:

<u>09/24/2001</u>	<u>09/24/2001</u>
DATE OF RECEIPT OF 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) REQUIREMENTS	DATE OF RECEIPT OF ALL 35 U.S.C. REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. **THE DATE APPEARING ON THE FILING RECEIPT AS THE " FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371 REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE.** The filing date of the above identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363). Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

The following items have been received:

- U.S. Basic National Fee
- Copy of IPE Report
- Copy of references cited in ISR
- Copy of the International Application
- Copy of the International Search Report
- Information Disclosure Statements
- Oath or Declaration
- Preliminary Amendments
- Request for Immediate Examination

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

TAMALA D HOLLAND

Telephone: (703) 305-5483

PART 1 - ATTORNEY/APPLICANT COPY

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ BLACK BORDERS
- ☐ IMAGE CUT OFF AT TOP, BOTTOM OR SIDES
- ☒ FADED TEXT OR DRAWING
- ☐ BLURRED OR ILLEGIBLE TEXT OR DRAWING
- ☐ SKEWED/SLANTED IMAGES
- ☐ COLOR OR BLACK AND WHITE PHOTOGRAPHS
- ☐ GRAY SCALE DOCUMENTS
- ☒ LINES OR MARKS ON ORIGINAL DOCUMENT
- ☐ REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY
- ☐ OTHER: _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.